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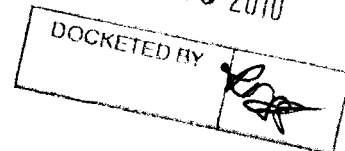
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AZ CORP COMMISSION  
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Arizona Corporation Commission  
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OCT 15 2010



October 14, 2010

Chairman Mayes  
Commissioners Pierce, Stump, Kennedy, and Newman  
Arizona Corporation Commission  
1200 W. Washington St., 2nd Floor  
Phoenix, AZ 85007

**RE: Response to APS Application for Approval of a Solar Electric Supply Agreement**  
**Docket No. E-01345A-10-0113**

Dear Commissioners,

Recurrent Energy appreciates the opportunity to address the Arizona Corporation Commission ("ACC") regarding Arizona Public Service ("APS") Company's Application for Approval of a Solar Electric Supply Agreement ("SESA") filed in the above docket on September 9, 2010.

We are the developer of the related RE Bagdad Solar 1 project (the "Bagdad Solar Project") and provide our comments in support of the SESA between Arizona Public Service Company and Freeport-McMoRan Copper and Gold Inc. ("Freeport-McMoRan").

#### **Project Background**

The Bagdad Solar Project is a 15 MW photovoltaic facility sited next to the Freeport-McMoRan Mine in Bagdad, Arizona. The project was developed over the past two years in response to APS' August 2008 Request for Proposal ("RFP") for Distributed Energy Resources. APS issued the RFP to spur projects through which APS customers could purchase the energy output of solar projects on or near the customer's property while allowing APS to procure the associated Distributed Energy Renewable Energy Credits ("RECs"). Because of the regulatory uncertainty surrounding third-party Power Purchase Agreements ("PPAs") between developers and retail customers, APS suggested potential contracting structures that allowed customers to procure solar energy without entering into a PPA or purchasing and operating a solar system themselves.

Recurrent Energy and Freeport -McMoRan jointly submitted a proposal for locating solar facilities at three of Freeport-McMoRan's mining sites utilizing the proposed "REC and Energy Contract Model". After evaluating each site's load profile and ability to meet the Distributed Energy tariff the Bagdad Mine site was selected for contracting and development of a solar facility. APS subsequently included the REC and Energy Contract Model in its 2010 Implementation Plan and the amended 2010 Implementation Plan for approval by the Commission. The Commission approved the 2010 Implementation plan and the

REC plus Energy Contract model, authorizing further development of the project and ultimately enabling Recurrent Energy to meet contractual obligations under the Purchase and Sale Agreement with APS. Pending the expected final permitting approval from Yavapai County in December, the project stands shovel-ready today with signed construction, module, and financing agreements and will begin construction by year-end to qualify for the American Recovery and Reinvestment Act Renewable Energy Cash Grant.

### **Project Benefits**

The project provides numerous benefits to Arizona rate payers in a variety of ways.

1. The Bagdad mine's large load is served by APS via a 48 mile radial transmission line from Prescott, making Bagdad an ideal location for utilizing distributed solar energy to offset power that would otherwise need to be transmitted over that long distance, reducing transmission constraints and losses.
2. Solar facilities built by experienced third-party developers, such as Recurrent Energy, will bring important construction, financing, and operating knowledge to the Arizona market that can help drive down long-term solar costs and corresponding energy prices. The Bagdad Solar Project will increase the number of third-party developed projects in Arizona and help realize lower long-term energy prices.
3. Lastly, it will spur significant job creation through its construction activities and have a positive impact on the local and state economy. State and local economic development officials can point to the project as a sign of Arizona's commitment to the solar industry when engaging new companies who are considering locating solar manufacturing operations in Arizona.

### **Solar Electric Supply Agreement**

An instrumental component of the REC and Energy Contract Model is the Solar Electric Supply Agreement between APS and Freeport-McMoRan. The SESA is based on Freeport-McMoRan's commitment to purchase the solar project's entire output at a fixed price for 25 years. This meaningful commitment, not taken by other commercial customers, should not go unnoticed.

As one of the largest energy users and private landowners in the state, Freeport-McMoRan has the potential to be a considerable supporter of the solar industry in Arizona for the years to come. Through its participation as both site host and energy offtaker in this project Freeport-McMoRan has taken a leadership role in numerous ways:

1. The company is furthering its global sustainability goals as it offsets part of its energy use from conventional fossil fuels with renewable solar energy;
2. The company is creating a template for other mining and industrial companies to follow in redeveloping their brownfield or unused buffer property for renewable energy generation, a program that the EPA and BLM have been aggressively pursuing with similar companies over the past two years;
3. Freeport-McMoRan is highlighting the long-term value that solar can provide companies as they look to offset the long-term rise in the costs of conventional energy.

Freeport-McMoRan's contribution to the RES fund as a large industrial user was raised previously. The question of proportionality is one that is normally heard and addressed during rate case hearings. Thus, we strongly urge the Commission to appropriately separate this issue from the approval of this important, first of its kind project. The specific concerns around proportionality can be addressed in the proper venue of the next rate case hearing without threatening the viability of this shovel ready project.

### **Established Regulatory Approval**

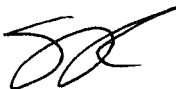
The solar industry relies on legislated mandates and regulatory frameworks to create a predictable and stable environment to operate in. As such, industry participants are very careful in deploying their investors' capital and resources until regulatory approval is given to contracts, frameworks, or other key policies that growth and return on investment rely on. Additionally, it's presumed that regulatory decisions won't be changed without proper review and, if changes are made, they take into account and protect the business investments that were based on the original approvals. Regulatory certainty and consistency are fundamental tenets on which all infrastructure industries depend to build their long-term business.

As previously mentioned, the Commission's approval of the REC and Energy Contract Model in APS' 2010 Implementation Plan was the significant regulatory milestone in Recurrent Energy's decision to invest in the project's development. Our decision to develop the project following the Commission's approval has required significant development investment and substantial risk. Cancellation of the project for lack of regulatory approval would cost us and our partners millions of dollars in cancelled contracts and constitute a major setback for the nascent but growing market for solar energy in Arizona.

In the context of this project and the approval sought for its associated SESA we ask the Commission take into serious consideration the significant investment made based on its approval of the REC and Energy Contract Model, in its current form, and Recurrent Energy's reliance on the Commission to provide certainty and consistency in following its decision. Amending the earlier approval to either discount the project's Distributed Energy value, force its reclassification as a wholesale utility project, or materially alter the SESA would undermine this project and the Commission's position with the solar industry.

We strongly urge the Commission to approve the Solar Electric Supply Agreement between APS and Freeport-McMoRan as offered and complete the last major milestone needed to begin construction on the Bagdad Solar Project by year end. We look forward to celebrating the successful commissioning of this milestone project with the Commission, APS, Freeport-McMoRan, and the rest of the solar industry.

Respectfully submitted,



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Sheldon Kimber

Senior Vice President, North American Development